

GOVERNMENT OF TELANGANA
ABSTRACT

Tribal Welfare Department - Adilabad District- Revision Petition filed by Sri Ankat Narayana S/o: Lachanna, died per Legal Representative Sri Ankath Tirupathi S/o Narayana R/o Mediguda (V) Jainad (M) Adilabad District against the orders issued in Proceedings No: A4/17/1997 dated:16-09-2006 of the Additional Agent to Government & Project Officer, ITDA, Utnoor, Adilabad District – Revision Petition Dismissed - Orders – Issued

TRIBAL WELFARE (LTR)DEPARTMENT

G.O.Ms.No. 07

Dated:30-05-2020,
Read the following:-

- 1) Revision Petition filed by Sri Ankat Narayana S/o: Lachanna, died per L.R. Sri Ankath Tirupathi S/o Narayana R/o Mediguda (V) Jainad (M) Adilabad District Dt:16.06.2007.
- 2) Govt.Memo No.4065/LTR-2/2007,dt:05.07.2007 & 03.11.2007.
- 3) From the Additional Agent to Government Utnoor, Adilabad, Lr.No.A4/LTR/23/2009/, Dt:21-01-2013.
- 4) Govt.Lr.No.4065/LTR-/2007,dt:30.06.2017,08.09.2017,14.03.2018 26-04-2018, 22.06.2018, 03.08.2018 & 27.11.2019.

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ORDER

In the reference 1st read above, Sri Ankath Tirupathi S/o Narayana R/o Mediguda (V) Jainad (M) Adilabad District filed Revision Petition through his counsel before the Government along with stay petition aggrieved by the orders of the Additional Agent to Government, Project Officer, ITDA,Utnoor, Adilabad District issued in Procs No: A4/17/1997 dated:16-09-2006.

2. In the reference 2nd read above, Government have rejected Stay and the Project Officer & Additional Agent to Government, Utnoor, Adilabad was requested to furnish Para Wise Remarks and connected case records and in the reference 3rd read above the Additional Agent to Government, Utnoor, Adilabad has furnished Para Wise Remarks and connected case records.

3. Government after conducting hearings on 22.7.2017,24.3.2018, 5.5.2018, 7.7.2018, 18.8.2018 and finally case called on 07.12.2019 in which Both petitioner and his counsel were absent and after careful examination of the Revision Petition and as verified from the documents produced before the authority as well as before the Additional Agent to Government it is observed that;

During the year 1987, the survey staff submitted a report that the land measuring Acs.4.33 in Sy.No.12 in Kanapa Mediguda Village of Jainad Mandal was under cultivation by Ankath Narayana S/o Lachanna while the pattedar was Parameshwaraiah in contravention of provisions of LTR 1/70. Accordingly, a show cause notice was issued to Sri Ankath Narayana and taken up for enquiry. The Special Deputy Collector (Tribal Welfare) Utnoor conducted hearings into the case on 3.7.1984, 14.11.1984, 4.2.1987, 14.11.1990, 15.2.1991, 22.11.1991 & 29.6.1996 and finally disposed on 8.5.1997 with the following findings:

- Sri Ankath Narayana (Revision Petitioner) deposed that he purchased the land from the Pattedar Parameshwaraiah for a consideration of Rs.12,000/- in the year 1978 and got it registered.

(Contd...2)

- Pattedar stated that he was the Pattedar of Sy.No.12 admeasuring Acs.19.12 situated at Kanpa Mediguda and entire land was given to his step mother Nagubai being her share. She expired 5 years ago and her grandson Kantaiah might have sold executed the sale deed. He further stated that he did not sell the land to Ankath Narayana, Manchala Adellu, Burri Ganganna and not executed any documents in favour of these persons.
- As per pahanies of 1987-88, 1988-89, 1989-90 produced by the MRO,Jainad, Parameshwaraiah was Pattedar and cultivators were 1.Ankath Narayana S/o Lachanna (4.23 acs.), 2.Burri Narsimloo S/o Gangaiah (5.00 acres), 3.Manchala Rajanna S/o Shivanna (4.00 acres).
- Xerox copy of registered deed No.960, dt.28.3.1978 revealed that Sri Ankath Narayana S/o Lachanna had purchased the suit land from Parameshwaraiah for a consideration of Rs.18,000/- in the year 1978.
- Xerox copy of agreement of sale dt.25.5.1965 revealed that Pattedar Parameshwaraiah had sold the land to Sri Ankath Narayana to an extent of Ac.4.33 in Sy.No.12 of Kanpa Mediguda for Rs.8,000/- out of which Rs.5,000/- was paid on 25.4.1965 and agreed to pay the remaining Rs.5,000/- at the time of registration. But the respondent i.e. Ankath Narayana got it registered in the year 1978 and paid Rs.18,000/-.
- Respondent Sri Ankath Narayana attended on 20.1.1995 and produced Land Revenue Receipts for the years 1982-84, 1987 and 1996 pertaining to Sy.No.12, extent Ac.4.33 of Kanpa Mediguda.
- On perusal of all documents produced by the purchaser and the statement of Pattedar, the court came to conclusion that Sri Parameshwaraiah was the Pattedar of suit land, but he stated in his statement that he did not sell the land to Ankath Narayana and also did not know the purchasers.
- As per statement of Sri Manchala Rajanna S/o Shivanna in file No.TWA2/102/96, his brother Adellu had sold ½ share of his land to Ankath Narayana. Actually the land in Sy.No.12 comprising of 19.12 acres was purchased by Burri Narsimloo to an extent of 9.65 and Sri Manchala Rajanna to an extent of 9.65 in the year 1962 and 1965 by executing sale agreements from the mother of Pattedar and Parameshwaraiah was minor at that time. But documents produced by Sri Ankath Narayana reveal that he purchased the land from Pattedar Parameshwaraiah in the year 1965 for consideration of Rs.8,000, but got it registered in the year 1978 for Rs.18,000, though there was no land available with him.
- Further, the transaction of immovable property in notified tribal village viz., Kanpa Mediguda of Jainad Mandal in the year 1978 i.e. after Regulation I of 1970 came to into force, is null and void.
- Therefore, the land was ordered for taking over into Government custody until further orders.

Aggrieved by the above orders of Special Deputy Collector (Tribal Welfare), Utnoor, Sri Ankanth Narayana S/o Lachanna R/o Kanpa Mediguda (v), Jainad Mandal had filed an Appeal before the Additional Agent to Government & Project Officer, ITDA Utnoor, Adilabad District vide Case No.A4/17/1997 which was disposed by the Appellate authority on 16.9.2006 with the following findings:

- Appellant stated that he purchased the land from Sri Parameshwar S/o Bhoomanna through Ordinary sale deed in the year 1965 and thereafter got it mutated through registry in the year 1978 to protect his rights over the suit land as purchaser and also to regularize his ordinary sale deed.
- No fresh document was produced to prove the sale transaction took place through ordinary sale deed in the year 1965.
- From the documents filed by the appellant in lower court i.e. Ordinary Sale Deed dt.25.5.1965, registry sale deed dt.28.03.1975 and pahani copies for the years 1987-88, 1988-89 and 1989-90 and found no link of ordinary sale deed to pahani documents and land revenue receipts.
- Appellant failed to prove that the transaction took place through ordinary sale deed in the year 1965 and through pahani documents. LRs produced by him also did not indicate year. Thus, the transaction has taken place through registered document on 28.3.1978 is found to be true and stands good.
- Therefore, the transaction took place between two non-tribals after the crucial date i.e. 3.2.1970 is not valid and accordingly directed for taking over the land under Government custody for assignment to eligible tribals.

4) Aggrieved by the above orders of the appellate authority, the Revision Petitioner Sri Ankath Narayana S/o Lachanna (died) per LR Mr.Ankath Tirupathi S/o Narayana has filed Revision Petition before the Government on 16.6.2007 urging the following grounds:

- Petitioner's father late Ankath Narayana had purchased agricultural land measuring Ac.4.33 guntas in Sy.No.12 situated in Kanpa Mediguda village, a notified tribal village of Jainad Mandal, Adilabad District, during 1965 i.e. 25.5.1965 by entering into an agreement of sale on Re.1/- stamp paper. His father paid entire sale consideration of Rs.8,000/- to the Vendor i.e. Parameshwar Rao who is 4th respondent herein and the Vendor handed over vacant possession of the land in question and ever since i.e. since 1965 the petitioner's father was enjoying the said property in his own right without any interruption, hindrance or objection from any quarter whatsoever.
- Petitioner's father is a poor, illiterate and rustic person with very meagre resources, not having knowledge to get the sale transaction regularized by proper conveyance in his favour as he was living in a rural village. After 13 years of entering into agreement of sale, he could not be able to pool up his resources on proper advice and got the sale registered by his vendor in his favour Doct.No.172/A dated 28.3.1978.

- The reason given by the 1st respondent is erroneous because in terms of section 3 (2) (a) of the said Regulation that when a transfer of immovable property is made in contravention of sub-section (1) of Section (3), the Agent or the ADO or any other prescribed officer on an application or suo moto or on information given in writing by public servant decree ejectment against any person in possession of the property claiming under the transfer and restore the same to the transferor or his heirs. But the 1st and 2nd respondents in contravention of such legal position directed the MRO i.e. 3rd Respondent herein to resume the land in question from the petitioner and assign the same to poor landless tribal. As those orders of the respondents are opposed to the aforesaid provisions they are not sustainable and liable to be set-aside on this ground alone.
- To restore the land in question to the transferor or his heirs, the respondents ought to have examined the provisions under the AP (Telangana Tribal Area) Regulation, 1359 Fasli, according to which a non-tribal can purchase the land from a tribal with the sanction of the Agent. This principle was decided by the Hon'ble High Court of AP in a case reported in 1987 (2) ALT 114 (NRC). In view of the above fact both the respondents failed to enquire as to how and when the petitioner's vendor who is a non-tribal came into possession of the land in question, enjoying the same till 1965 when he sold the land in question to the petitioner's father. The respondents also have not considered whether the petitioner's vendor purchased the land from a tribal after obtaining permission from the competent authority or succeeded to the said land as a legal heir of his ancestors. If the possession of the petitioner's vendor falls in any one of the above categories, the land becomes his personal property and in such case he has absolute right to dispose of the said property in any manner he likes in his own right and does not come under category of reserved area. Consequently the purchaser i.e. the petitioner herein has the right to purchase the said land. This aspect of law has not been examined by the R1 and R2 and therefore, orders of R1 and R2 are liable to be set aside. It is further submitted that the respondents have not examined another aspect when the petitioner's vendor came into possession into the schedule land either by purchase or succession as stated above.
- Petitioner's father admittedly purchased the said land during the year 1965 and cultivating the same uninterruptedly for the last 40 years. As a matter of law, the patwari of Mediguda village ought to have mutated name of the petitioner's father as purchaser and cultivator of the land and for the lapse on the part of patwari, the rustic illiterate and poor purchaser and cultivator should not be persecuted without proper enquiry. It is noted fact that there is no awareness among the public in rural areas about getting their names mutated in the revenue records and it is only after liberalizing sanction of loans on the basis of entries in the PPBs, people in rural areas got their names entered in the PPBs and pahanies. In the instant case, petitioner's father is illiterate poor and rustic person and he is not familiar with the intricacies of law either to get the sale registered and then and there get his name mutated in the pahanies in the year 1965 or within a reasonable time. In fact it is the fundamental duty of the patwari to mutate names of the purchasers in the pahanies and other relevant records without being persuaded or goaded by the purchasers particularly when the petitioner's father was in continuous possession

and cultivating for over 40 years uninterruptedly. Under such circumstances, it is submitted that it is against the principles of natural justice and equity to eject the petitioners from such land without proper enquiry.

- Respondent No. 1 and Respondent No.2 have grossly failed to consider the agreement of sale and registered sale deed and also entry into the land is by valid documents. Respondent No.1 and Respondent No.2 have also failed to examine the documents filed by the petitioners with reference to the provisions contained in the AP (Telangana Tribal Areas) Regulation, 1359 F.
- When the petitioner and his father are in actual possession and cultivating the land for the last 40 years, all of sudden by invoking section 3 (1) of APSALTR 1959 to evict them from the said land on the plea of assigning the same to landless poor tribals against the provisions of Section 3 (2) (a) of the said Regulation, is an unlawful act of the respondents. In fact petitioner and his father are also landless poor and they have no other land except the schedule property which they have purchased after investing their entire life savings and developed the same for cultivation for the last 40 years by hard incurring huge expenditure. At this stage, to snatch-away the land from the petitioners hand is against the principles of natural justice.

The Additional Agent to Government & Project Officer ITDA Utnoor has submitted remarks stating that the petitioner was put to strict proof of all the allegations. He had filed the Memorandum of Appeal on 14.7.2009 with the delay of 5 years 1 month and 18 days, but did not file any petition for condonation of delay though ample opportunity was given. The appeal time as per statutory provision is 60 days from the date of the lower court order. In view of the rule position, the Additional Agent to Government having no other go, had dismissed the Appeal at the stage of admission of the statutory appeal on the ground of delay, on 12.1.2010.

The Additional Agent to Government & Project Officer ITDA Utnoor further reported that there the averments made in the Revision Petition are not true and made only to circumvent LTR proceedings/escape from the agency laws.

Examined the case record of lower and appellate courts and also the grounds urged before the Government.

The contention of the petitioner that in terms of section 3 (2) (a) of the Regulation that when a transfer of immovable property is made in contravention of sub-section (1) of section (3), the same has to be restored to the transferor or his heirs, is not acceptable. The Hon'ble High Court in the case of Vemana Somalamma and others Vs Deputy Collector, TW, Rampachodavaram, the Hon'ble High Court held as follows:

"19. Accordingly, we hold that when a non-tribal transfers the land to a non-tribal in contravention of the provisions of [S. 3\(1\)\(a\)](#), he will not be entitled to ask the authorities for restoration of the property in his favour invoking the provisions of Clause (a) of subsection (2) of [Section 3](#). The said clause will not apply to a non-tribal transferor".

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The other contention of the petitioner that according to AP (Telangana Tribal Area) Regulation, 1359 Fasli, a non-tribal can purchase the land from a tribal with the sanction of the Agent. This argument of the petitioner is also not acceptable. The AP Scheduled Areas Land Transfer Regulation (Regulation I of 1959) was extended to Telangana Region also w.e.f. 1.12.1963 by Regulation II of 1970 and accordingly the Regulation I of 1970 was enacted for whole of the State of Andhra Pradesh w.e.f. 3.2.1970, according to which any transfer/transaction by any means excepting testamentary disposition between non-tribals is null and void. The transaction in the present case was held on 28.3.1978 vide Doct.No.172/A which is after the Regulation I of 1970 came into force i.e. from 3.2.1970. The Revision Petitioner failed to substantiate his claim by producing any corroborative documentary evidence that he purchased the land in the year 1965 itself except a sada sale agreement dt.25.5.1965 written on a Re.1/- stamp paper. If the land is purchased in the year 1965, name of the petitioner should have been reflected in the pahanies of the said year i.e. 1965 onwards and citing it as the mistake of the village patwari for not recording the same in the said year is only to circumvent the LTR proceedings. Before the lower court on 20.1.1995, the Petitioner produced LRs for the years 1982-84, 1987 and 1996 and pahani copies for the years 1987-88, 1988-89 and 1989-90 which also did not find any link of purchase by him in the year 1965. Thus, it is clear that the transaction between two non-tribals took place on 28.3.1978 i.e. after the Regulation I of 1970 came into force, is null and void as per sub-section 1 of Section 3 of the APSA LTR 1/59 R/W Regulation I of 1970 came into force w.e.f. 3.2.1970.

5) Government after careful examination of the matter and in view of the above reasons do not find any reason to interfere with the orders passed by the Appellate Authority i.e. Additional Agent to Government & Project Officer ITDA Utnoor in Case No.A4/17/1997, dt.16.9.2006 and hereby **Dismiss** the Revision Petition filed by Sri Ankath Narayana S/o Lachanna (died) per LR Mr. Ankath Tirupathi S/o Narayana.

6) The Additional Agent to Government & Project Officer ITDA Utnoor, Adilabad District shall take necessary action in the matter accordingly. The original case records received in the reference 3rd read above are returned herewith.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)

Dr. CHRISTINA Z.CHONGTHU
SECERETARY TO GOVERNMENT

To

- 1) Sri Ankath Tirupathi S/o Narayana,
R/o Mediguda (V) Jainad (M), Adilabad District.
- 2) Sri Parameshwariaiah, S/o. Bhumaiah, Occ: Agriculture,
R/o. Mediguda (V), Jainad (M), Adilabad District
- 3) The Project Officer, ITDA and Additional Agent to Government,
Utnoor, Adilabad District (w.e.)

Copy to :

The Special Deputy Collector (TW), Utnoor, Adilabad District
The Tahsildar, Jainad Mandal, Adilabad District for necessary action.
M/s T. Sudhakar Reddy & C. Narasimha Rao, Advocates,
1-9-312/B/A/1, Achyuthareddy Marg, Vidyanagar, Hyderabad-44.
P.S to M(TW)/P.S. to Prl. Secretary (TW)
SF/SC

//FORWARDED:: BY ORDER//

SECTION OFFICER